

### **REMARKS**

In the specification, the paragraphs on pages 3 and 4, lines 12 and 4, respectively, have been amended, for the sake of clarity, to correct certain informalities concerning the description of US Patent 6,345,258 to Pickens and US Patent 6,396,410 to Thompson, which were inadvertently switched in the original application submitted. As amended, the specification correctly describes the prior art references, including US Patent 6,345,258 to Pickens and US Patent 6,396,410 to Thompson.

The Examiner has rejected claim 6 under 35 USC §112 as lacking sufficient antecedent basis for the limitation “said surety institution”. For purposes of art rejections set forth in the Office Action, claim 6 “said surety institution” language has been interpreted as “a surety institution”. Claim 6, line 3 has been amended to provide proper antecedent basis for the term “a surety institution”. The amendment to claim 6 is clearly supported by the original specification.

The present invention, as recited by applicants’ claims 1-6 and 9-11, provides a contractor certification system for evaluating a contractor's business and financial practices in an accurate, efficient and highly reliable manner. Generally stated, the system comprises a survey means comprising a questionnaire, which is provided to selected candidates within a contractor's business for assessing business and financial practices; a mapping means for studying answers provided to said questionnaire to select job site visits and candidates for interviews; on-location assessment means for determining business and financial practices at the contractor's operations; comparison means for assessing business and financial practices, and ranking the contractor in comparison with industry standards; and reporting means for providing a grade indicative of said contractor's rank.

The contractor certification system provides a third party, unbiased, objective analysis of a contractor's business and financial practices using professionals specifically trained to conduct the evaluation. Upon being generated, the report provides a complete analysis of risks associated with the contractor's business and financial practices. This report allows surety and financial institutions to confidently underwrite credit agreements with the contractor at a reasonable rate; it avoids higher rate underwriting charges, which might otherwise be required to account for potential failures in a contractor's operations. This form of objective unbiased analysis by a third party also helps the contractor to obtain credit at the best rate available. The contractor is thereby provided an opportunity to improve his business and financial practices, and to document them through contractor certification system reports on an annual basis.

The Examiner has rejected claims 1 – 6 and 9 – 11 under 35 USC §103(a) as being unpatentable over US Patent No. 5,765,138 to Aycock et al. in view of US Patent Application No. 2002/0099586 A1 to Bladen et al. In particular, with respect to claim 1, the Examiner has stated that Aycock et al. teaches a contractor certification (supplier evaluation) system comprising: (a) survey means comprising a questionnaire (RFP/RFQ), which is provided to selected candidates (suppliers that desire to be qualified as vendors) within a contractor's business for assessing business (service and support) and financial practices (price and availability); (b) on-location assessment (on-site audit) means for determining (validating) business and financial practices at the contractor's operations; (c) comparison means (risk assessment) for assessing business and financial practices (technical capabilities), and ranking the contractor in comparison with industry standards; and (d) reporting means (product database) for providing a grade indicative of said contractor's rank (competitive

analysis of all vendors to determine the respective performance). It is recognized by the Examiner that Aycock et al. fails to teach a mapping means for studying answers provided to a questionnaire. However, the Examiner has indicated that Bladen et al. teaches a risk assessment system where performance can be compared against an industry benchmark using trend analysis graphs as results. The Examiner has concluded that it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include a mapping means.

Aycock et al. discloses an apparatus and method for providing an interactive evaluation of suppliers as proposed vendors for a project. The Aycock et al. patent provides a system and method used to analyze supplier capabilities in order to qualify a supplier as a vendor for a project. The Aycock et al. system is a supplier self-evaluation system whereby vendor requirements are selected and assigned relative weight on the basis of project objectives. These requirements are provided to a supplier, and the supplier submits responses thereto. The supplier responses are assigned a scaled score on the basis of corresponding vendor responses. The scaled score is correlated with the relative weight of the requirements, and a supplier maturity level is calculated. This supplier maturity level refers to the supplier's sophistication and capabilities in establishing and maintaining quality standards in the design, production, distribution, serviceability, and reliability of the supplier's product and service.

The supplier evaluation system disclosed by Aycock et al. does not question or evaluate business and financial practices within the supplier's business, as required by applicants' claims 1-6 and 9-11. Significantly, the questions and requirements proposed by the Aycock et al. supplier evaluation system deal with technical

specifications, price and availability, service and support and the selected quality maturity requirements selected (col. 6, line 2 – 5). These maturity requirements are established from a known set of quality process standards, such as ISO 9001 “Quality Systems – Model for Quality Assurance and Design, Production, Installation and Servicing”, and the like (Col. 5, line 22 – 26). Significantly, these standards are not indicative of a contractor’s risk value for surety and lending institutional purposes. Instead, these technical specifications are established in order to determine quality assurance, and basically evaluate the supplier as to the quality of the work, the price the work is offered at, and the availability. Price and availability are not tantamount to a contractor’s business and financial practices and are not factors generally utilized by sureties and the like, but rather are utilized by other contractors and the like to determine whether the contractor should utilize a specific supplier. Therefore, it is respectfully submitted that Aycock et al. does not teach a contractor certification system comprising survey means comprising a questionnaire, which is provided to selected candidates within a contractor’s business for assessing business and financial practices.

The Examiner has additionally stated that Aycock et al. teaches on-location assessment (on-site audit) means for determining (validating) business and financial practices at the contractor’s operations, comparison means (risk assessment) for assessing business and financial practices (technical capabilities), ranking the contractor in comparison with industry standards, and reporting means. Aycock et al. teaches that if an automatic approval of a supplier cannot be made, then an additional tier analysis is performed, namely performance of an on-site supplier audit to validate the supplier responses, and to gain any additional information necessary to complete the supplier selection process. After the necessary quality maturity requirements have

been selected, the process continues to apply the requirements to the request for proposal/request for quotation (RFP/RFQ), which includes requirements for technical specifications, price and availability, service and support and the selected quality maturity requirements. The completed RFP/RFQ is disseminated to suppliers that desire to be qualified as vendors for the identified project. The completed RFP/RFQ is received from the supplier, and includes the supplier responses to the RFP/RFQ requirements.

Clearly, the Aycock et al. patent does not teach on-site financial or business practice audit, as called for by applicants' claims 1-6 and 9-11. Rather, the Aycock et al. teaching is limited to use of an on-site audit to gain additional information necessary to complete the supplier selection process. (col. 7, line 59). Such additional information deals strictly with criteria such as quality, production control and design control criteria; it does not address criteria such as business and financial matters involving the internal business of the supplier.

Recognizing that Aycock et al. fails to teach a mapping means for studying answers provided to a questionnaire, the Examiner has combined therewith the teaching of Bladen et al. The Examiner has stated that Bladen et al. teaches a risk assessment system where performance can be compared against an industry benchmark using trend analysis graphs as results.

Applicants respectively submit that Bladen et al. does not disclose or suggest a system that addresses criteria such as business and financial matters involving the internal business of a contractor. In this respect the Bladen et al. disclosure does not add to the Aycock et al. teaching, and it cannot be combined therewith to render applicants' claimed system obvious.

Assuming, arguendo, that the Aycock et al. system were modified in light of the Bladen et al. teaching, as proposed by the Examiner, the resulting system would still not have survey means comprising a questionnaire, which is provided to selected candidates within a contractor's business for assessing business and financial practices, as required by applicants' claims 1-6 and 9-11. In contrast to any system constructed in light of the combined teachings of the cited references, the Contractor Certification System called for by present claims 1-6 and 9-11 provides an objective assessment to support underwriters' determinations. A validation of contractors' claimed capabilities is also obtained. The Contractor Certification System called for by applicants' claims also provides certification for subcontractors. Surety brokers can be provided with an independent evaluation of their clients. The Contractor Certification System assists the broker in preparing their surety submission. These advantages, inherent to the contractor certification system delineated by present claims 1-6 and 9-11, are not disclosed or suggested by the cited references and would not be provided by any system constructed from any combination of the art applied.

In short, each of Aycock et al. and Bladen et al. lack disclosure of an important element called for by applicants' claim 1-6 and 9-11. That component -- survey means comprising a questionnaire, which is provided to selected candidates within a contractor's business for assessing business and financial practices - - is a necessary prerequisite for the outstanding advantages that applicants' claimed system affords.

Accordingly, reconsideration of the rejection of claims 1-6 and 9-11 under 35 USC §103(a) as being unpatentable over the combination of Aycock et al. and Bladen et al. is respectfully requested.



Claims 7 and 8 were rejected under 35 USC 103(a) as being unpatentable over Aycock et al. and Bladen et al, and further in view of US Patent 5,627,973 to Armstrong et al.

Like Aycock et al. and Bladen et al., Armstrong does not disclose or suggest a system having survey means for assessing business and financial practices. Rather, Armstrong et al. merely teaches a system for evaluating business opportunities. In these respects, the teaching of Armstrong et al. does not appreciably add to the Aycock et al. and Bladen et al. disclosures, and cannot be combined therewith to render applicants' claims 7 and 8 obvious. For the reasons set forth above in connection with the rejection of claims 1-6 and 9-11 under 35 USC 103, it is respectfully submitted that present claims 7 and 8 patentably define over the combined teachings of Aycock et al, Bladen et al. and Armstrong et al.

Accordingly, reconsideration of the rejection of claims 7 and 8 under 35 USC 103(a) as being unpatentable over the combination of Aycock et al., Bladen et al, and Armstrong et al. is respectfully requested.

In view of the amendments to the specification and claim 6, and the remarks set forth above, it is respectfully submitted that the present application is in allowable condition. Reconsideration and allowance of claims 1-11 are, therefore, earnestly solicited.

Respectfully submitted,  
David J. Alverson et al.

  
By   
Ernest D. Buff  
(Their Attorney)  
Reg. No. 25,833  
(908) 901-0220